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Patent
USSN 09/602,374
Atty Docket 20107

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Klaus Vammen, et al.

For: METHOD AND APPARATUS FOR
INVESTIGATING MATERIAL PROPERTIES
OF BONE USING ULTRASOUND

Serial No. 09/602,374

Filed: June 23, 2000

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Group Art Unit:
Unknown

Examiner:
Unknown

TC 2700 MAIL ROOM

SEP 15 2000

RECEIVED

**PETITION UNDER 37 CFR 1.53 TO GIVE THIS APPLICATION
FILING DATE OF JUNE 22, 2000 INSTEAD OF JUNE 23, 2000**

TO:

Assistant Commissioner of Patents:
Washington, D.C. 20231

09/12/2000 SSESHE1 00000024 09602374

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130.00 DP

Dear Sir:

Applicant is filing this Petition under 37 CFR §1.53 requesting that the filing date of June 22, 2000 be accorded to this application in place of the date of June 23, 2000 set forth on the return postcard, a copy of which is enclosed and submits herewith the following facts to justify the correction in the filing date.

Applicant's attorney's secretary filed this application on June 22, 2000 by depositing a U.S. Express Mail envelope in a U.S. Express Mail box in front of the Barrington, Illinois Post Office well before 5:00 p.m., the pickup time.

Enclosed is a copy of the Certificate of Express Mail Deposit sent with the application asserting a deposit date of June 22, 2000.

In particular, applicant's attorney's secretary took the subject application in a U.S. Express Mail mailing envelope to the Barrington Post Office in Barrington, Illinois on her lunch hour, which was between the hours of 12:30 p.m. and 1:30 p.m. knowing that June 22, 2000 was the critical date and last day for filing the subject application

in order to claim priority from an International Application, namely PCT Application No. PCT/DK 98/00574. In view of many cars parked in the Post Office parking lot, to avoid a long wait in line, she deposited the envelope in an "Express Mail" box located outside of the Post Office knowing that it was the practice of the employees of the Barrington Post Office to retrieve all envelopes in the Express Mail box by the hour of 5:00 p.m., process same and then return in the mail to applicant's attorney a copy of the U.S. Express Mail receipt.

When applicant's attorney's secretary received the return postcard for this application showing the application serial number and the filing date, he and she were surprised to notice that the application had been given a filing date of June 23, 2000 and not June 22, 2000, the day the application was mailed to the Office by U.S. Express Mail.

Immediately, applicant's attorney's secretary searched the file for the copy of the U.S. Express Mail receipt which should have been returned to them by the Barrington Post Office when they retrieved the U.S. Express Mail envelope from the Express Mail mailing box and processed same through their system. However, he and she could not locate any U.S. Express Mail receipt.

Applicant's attorney's secretary then contacted the Barrington Post Office and talked to Mr. Dennis Carr, a Barrington Post Office employee, and learned that this Express Mail envelope had not been processed by the Barrington Post Office and that is probably why an Express Mail receipt had not been mailed to applicant's attorney. Instead, a search of the number EL 468139627 in the Post Office's computer system showed that the Express Mail envelope was processed on the afternoon of June 23, 2000, at the O'Hare Post Office Facility.

Attached to this Petition is a Declaration of applicant's attorney's secretary, Mrs. Sandra Takla, attesting to the procedure she took in mailing this application to the Office by U.S. Express Mail, as well as a Declaration from the Barrington employee, Mr. Dennis Carr, attesting to the normal procedure followed by the Barrington Post Office and, that, apparently through human error on the part of the Barrington Post Office, the Express Mail envelope was not processed through the Barrington Post Office which was their normal procedure. In any event, applicant's attorney never received a copy of the U.S. Express Mail receipt from the Barrington Post Office.

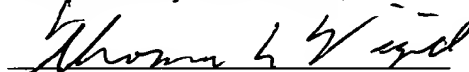
The date of June 22, 2000 was the priority date for the subject application in order to claim priority. Applicant's attorney's secretary took the U.S. Express Mail to the Barrington Post Office and put it in the "Express Mail" mailing box between 12:30 p.m. and 1:30 p.m., well before the 5:00 p.m. pickup. While she did not physically take the envelope into the Post Office and obtain a signed and dated receipt, she had no reason to believe that the envelope would not be processed on June 22, 2000 and she expected to receive a properly dated receipt in the mail. Unfortunately, through human error on the part of the Barrington Post Office, the envelope was not processed at the Barrington Post Office.

For the foregoing reasons, applicant's attorney submits that a good faith effort was made to timely file the application by U.S. Express Mail on June 22, 2000. Further, the foregoing remarks and attached Declarations provide good and sufficient grounds for correcting the filing date.

Accordingly, applicant's attorney petitions for correction of the filing date from June 23, 2000 to June 22, 2000.

Still further in support of this Petition, applicant's attorney is submitting herewith a check in the amount of \$130.00, the Petition fee under 37 CFR §1.53 and in view of the above remarks and attached Declarations, requests that the filing date of the subject application be corrected from June 23, 2000 to June 22, 2000.

Respectfully submitted,



Thomas R. Vigil
Reg. No. 24,542

Dated: September 7, 2000.

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